REMARKS

Status

This Amendment is responsive to the Office Action dated August 3, 2004, in which Claims 1-17 were rejected. No claims have been canceled; no claims have been amended; and no new claims have been added. Accordingly, Claims 1-17 are pending in the application, and are presented for reconsideration and allowance.

Claim Rejection - 35 USC 103

Claims 1, 2, 4-6, and 7-11 stand rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,433,784 (*Merrick*) in view of US Patent No. 6,606,117 (*Windle*) and in further view of US Patent No. 5,734,794 (*White*). As best understood, the Office Action's position is that it would have been obvious to generate *Merrick's* animation model using *Windle's* template alignment scheme by capturing digital still photographs which can be used to generate animation as taught in *White*. This rejection is respectfully traversed.

The present invention provides an apparatus and method for posing a subject so as to capture an image suitable for use in generating an animation model, and provides a template to capture an image for use in generating an animation model.

There is no teaching, suggestion, or incentive supporting the combination as suggested in the Office Action. Rather, it appears that the Examiner has used Applicant's teaching to hunt through the prior art for the claimed elements and combine them as claimed by Applicant.

For example, the Office Action's position is that *Merrick* teaches generating an animation model with templates. However, *Merrick* provides pre-programmed character images (as shown in *Merrick's* Figure 3), and such a pre-programmed character image is not a "template" as the word "template" is used by Applicant in the claims. As such, *Merrick* does not teach generating an animation model with templates.

Further, there is no motivation to use *Windle's* live still pictures captured using a camera. As indicated above, *Merrick* is an animation generation

system so employs character images – not digital still images. As such, there is no motivation in *Merrick* to use images captured using an image capture device.

Nor is there any teaching, suggestion, or incentive in *Windle* to support the Office Action's suggested combination. *Windle* does teach a template, however, *Windle* is directed to a content gathering apparatus for gathering predetermined forms of content information. There is no teaching, suggestion, or incentive in *Windle* to use the gathered content for the generation of an animation model, as claimed by the present invention.

As to *White*, *White*'s collection of video cells which are used to generate an animated video sequence are automatically synchronized to an audio input (see Col 2, lines 1-22). In the present invention, the images captured do not include an audio input. As such, it is not obvious from *White* how non-audio images could be employed to generate an animation model.

Absent some teaching, suggestion, or incentive supporting the combination, obviousness cannot be established. Since such a showing is absent, it appears that the Examiner has used Applicant's teaching to hunt through the prior art for the claimed elements and combine them as claimed by Applicant.

Accordingly, independent Claims 1, 4, 7, and 8 are believed to be patentable.

Claims 2, 5-6, and 9-11 are dependent on Claims 1, 4 or 8, and therefore include all the features thereof. For the reasons set forth above with regard to the independent claims, Claims 2, 5-6, and 9-11 are also believed to be patentable.

Claim Rejection - 35 USC 103

Claim 3 stands rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,433,784 (*Merrick*) in view of US Patent No. 5,708,883 (*Segan*) and in further view of US Patent No. 5,734,794 (*White*). This rejection is respectfully traversed.

The present invention as claimed in Claim 3 is not obvious from the suggested combination since none of the references teach or suggested claimed features of the present invention. For example, *Segan* does not teach capturing an image of the subject wherein the template is aligned with the subject.

Segan's alignment templates 56a,56b are used for the <u>alignment</u> of <u>multiple</u> exposure entertainment images, for example, a friend's head on a circus performer's torso.

Still further, there is no teaching, suggestion, or incentive supporting the combination as suggested in the Office Action. Again, it appears that the Examiner has used Applicant's teaching to hunt through the prior art for the claimed elements and combine them as claimed by Applicant.

Merrick does not teach generating an animation model with templates. *Merrick* provides pre-programmed character images (as shown in *Merrick's* Figure 3), and such a pre-programmed character image is not a "template" as the word "template" is used by Applicant in the claims. As such, *Merrick* does not teach generating an animation model with templates.

Nor is there any teaching, suggestion, or incentive in *Segan* to support the Office Action's suggested combination. As indicated above, *Segan's* alignment templates 56a,56b are used for the <u>alignment</u> of <u>multiple</u> exposure entertainment images, for example, a friend's head on a circus performer's torso. Thus, there is no teaching, suggestion, or incentive in *Segan* to use *Segan's* multiple exposure alignment templates for the generation of an animation model.

As to *White*, *White's* collection of video cells which are used to generate an animated video sequence are automatically synchronized to an audio input (see Col 2, lines 1-22). In the present invention, the images captured do not include an audio input. As such, it is not obvious from *White* how non-audio images could be employed to generate an animation model.

Absent some teaching, suggestion, or incentive supporting the combination, obviousness cannot be established. Since such a showing is absent, it appears that the Examiner has used Applicant's teaching to hunt through the prior art for the claimed elements and combine them as claimed by Applicant.

Accordingly, Claim 3 is believed to be patentable.

Claim Rejection - 35 USC 103

Claims 12-17 stand rejected under 35 USC 103(a) as being unpatentable over US Patent No. 5,708,883 (*Segan*) and in view of US Patent No. 6,433,784 (*Merrick*). This rejection is respectfully traversed.

Segan's alignment templates 56a,56b are used for the <u>alignment</u> of <u>multiple</u> exposure entertainment images, for example, a friend's head on a circus performer's torso (see Col 3, line 64 through Col 4, line 19). *Segan* does not teach the claimed feature of a plurality of templates, wherein each template has an outline representative of a predetermined position. Thus, even if *Segan* were combined with *Merrick* as suggested in the Office Action, the present invention as claimed would not result.

Accordingly, independent Claims 12 and 16 are believed to be patentable.

Claims 13-15 and 17 are dependent on independent Claims 12 or 16 and therefore include all the features thereof. For the reasons set forth above with regard to the independent claims, Claims 13-15 and 17 are also believed to be patentable.
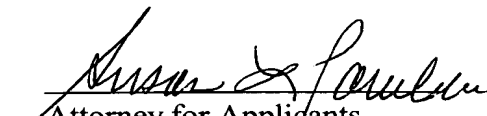
Summary

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is believed that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,

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